

FILED

NOT FOR PUBLICATION

OCT 17 2005

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

HUGO LEONEL AGUILON CUCULISTA,

Petitioner,

v.

ALBERTO GONZALES, Attorney General,

Respondent.

No. 02-71769

Agency No. A74-824-594

MEMORANDUM *

On Petition for Review of an Order of the
Board of Immigration Appeals

Argued and Submitted August 5, 2005
Pasadena, California

Before: KOZINSKI, RAWLINSON, Circuit Judges, and EZRA, District
Judge.**

Hugo Leonel Aguilon Cuculista petitions for review of the Board of
Immigration Appeals' summary affirmance of an immigration judge's ("IJ") denial

* This disposition is not appropriate for publication and may not be cited to
or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The Honorable David Alan Ezra, Chief United States District Judge for
the District of Hawaii, sitting by designation.

of his applications for asylum and withholding of deportation. We deny the petition for review.

Substantial evidence supports the IJ's finding that Cuculista failed to establish past persecution based on guerillas' death threats. *See Lim v. INS*, 224 F.3d 929, 936-37 (9th Cir. 2000) (explaining that threats without more are generally insufficient to prove past persecution).

Substantial evidence also supports the IJ's finding that Cuculista failed to establish a well-founded fear of future persecution on account of an enumerated ground. *See Sangha v. INS*, 103 F.3d 1482, 1487 (9th Cir. 1997). The guerillas' recruitment and threats were not on account of imputed political opinion but rather on account of knowledge Cuculista had acquired in his prior employment.

Because Cuculista failed to establish eligibility for asylum, he necessarily failed to meet the more stringent standard for withholding of removal. *See Al-Harbi v. INS*, 242 F.3d 882, 888-89 (9th Cir. 2001).

Cuculista's period of voluntary departure will begin to run upon issuance of this court's mandate. *See Elian v. Ashcroft*, 370 F.3d 897 (9th Cir. 2004) (order).

PETITION DENIED.